

**REMARKS**

The Examiner's Action dated March 23, 2005 has been received and its contents carefully considered.

In this Amendment, Applicant has amended Claims 1, 3-9, 23 and 29 and Applicant has cancelled Claims 2, 24, 26 and 30-31. Claims 1, 23 and 29 are the independent claims. Claims 3-6 and 8-9 depend upon Claim 1, whilst Claim 7 depends upon Claim 6. Claims 19 and 21-22 depend upon dependent Claim 33, whilst Claim 20 depends upon dependent Claim 19. Claim 25 depend upon Claim 23. Claim 33 depends upon Claim 29. Claims 1, 3-9, 19-23, 25, 29 and 32-33 remain pending in the application with changes thereto as noted above. For at least the following reasons, it is submitted that this application is in condition for allowance.

In order to expedite the prosecution of this application, Applicant has substantially complied with the Examiner's suggestions with respect to Claims 1-9, 26 and 30-31. Applicant thanks the Examiner for her courtesy in suggesting how the rejections to Claims 1, 3-9, 26 would be overcome and also her stated allowance of amended Claims 1, 3-9 and amended Claims 23-25.

a. **Rejection of Claims 1-9 and 26 under 35 U.S.C. §112 Second Paragraph, Objection to Claim 26, Allowance of Claims 1, 3-9, 23 and 25**

The Examiner rejected Claims 1-9 and 26 because allegedly the subject Claims 1-9 and 26 were indefinite with regard to whether the subject Claims 1-9 and 26 were directed to a drapery or directed to a drapery lining. In addition, the Examiner alleged that Claim 2 limits the first side of said first layer of acrylic latex to be flocked, but that it is unclear how said side can be flocked when a fabric is already present.

In response, with regard to Claims 1-9:

1. Applicant has amended the preamble of Claim 1 to state: "A drapery comprising, in combination". Additionally, Applicant has amended the body of Claim 1 to state Applicant's unique and non-obvious features: "a metalized film having a first side and a second side; a first layer of acrylic latex having a first side and a second side, said second side of said first layer of acrylic latex is coated to said first side of said metalized film; a drapery fabric coupled to said first side of said first layer of acrylic latex; and a second layer of acrylic latex having a first side and a second side, said first side of said second layer of acrylic latex is coated to said second side of said metalized film, said combination of said metalized film, said first layer of acrylic latex, said drapery fabric and said second layer of acrylic latex comprising a blackout and thermal drapery". Applicant has amended the preamble of Claim 1 to make it clear that Claim 1 is directed to a drapery and has also amended the body of Claim 1 to clarify the language of the construction of the drapery and to furthermore make it clear that the blackout and thermal drapery comprises "the combination of the metalized film, the first layer of acrylic latex, the drapery fabric and the second layer of acrylic latex", thereby overcoming the rejection of independent Claim 1.
2. In order to expedite the prosecution of subject Application, Claim 2 has been cancelled without prejudice and further disclaimer.
3. Applicant has amended the preamble of Claims 3-9 to state: "The drapery of Claim 1" as suggested by the Examiner.
4. Since dependent Claims 3-9 ultimately depend upon unique and non-obvious independent Claim 1, these dependent Claims 3-9 have all the limitations of independent Claim 1 and are also unique and non-obvious, thereby overcoming the rejection of dependent Claims 3-9.
5. These amendments of Claims 1 and 3-9 are intended to be clarifying only and no reduction in scope of the remaining claims is intended. In the current

Office Action, the Examiner has indicated Claims 1, 3-9 would be allowed if amended according to the Examiner's suggestions.

With regard to Claims 23-26:

1. Applicant has amended the body of Claim 23 by adding the language of Claim 26 to Claim 23. Claim 23 defines Applicant's unique and non-obvious features of a method for manufacturing a drapery, comprising, in combination, the steps of: "providing a film having a first side and a second side; metalizing said first side of said film and said second side of said film; coating a first layer of acrylic latex to said first side of said metalized film; providing a fabric; coupling said fabric to said first layer of acrylic latex; and coating a second layer of acrylic latex to said second side of said metalized film, said combination of said metalized film, said first layer of acrylic latex, said fabric and said second layer of acrylic latex comprising a blackout and thermal drapery". Furthermore, Applicant has amended the preamble of Claim 23 consistent with the Examiner's suggestion for Claims 1-9 (see above).
2. In order to expedite the prosecution of subject Application, Claims 24 and 26 have been cancelled without prejudice and further disclaimer. Claim 24 is analogous to Claim 2 (see above), while the language of the body of Claim 26 has been incorporated into Claim 23.
3. Since dependent Claim 25 depends upon unique and non-obvious independent Claim 23, dependent Claim 25 has all the limitations of independent Claim 23 and is also unique and non-obvious, thereby overcoming the rejection of dependent Claim 25.
4. These amendments are intended to be clarifying only and no reduction in scope of the remaining claims is intended. In the current Office Action, the Examiner has indicated Claims 23 and 25 would be allowed if amended according to the Examiner's suggestions.

Accordingly, it is respectfully submitted that the Examiner's rejection of Claims 1, 3-9, 23 and 25 has been overcome, and Applicant courteously requests allowance of amended Claims 1, 3-9, 23 and the allowance of original dependent Claim 25.

b. Objection to Claims 30 and 31 under 37 CFR 1.75

The Examiner objected to Claims 30 and 31 because allegedly the subject Claims 30 and 31 are respectively duplicates of Claims 1 and 26 (presumably the Examiner meant amended Claim 23 as shown above).

In order to expedite the prosecution of subject Application, Claims 30 and 31 have been cancelled without prejudice and further disclaimer. These amendments are intended to be clarifying only and no reduction in scope of the remaining claims is intended.

c. Rejection of Claims 19-25, 29, 32 and 33 under 35 U.S.C. § 103(a)

The Examiner rejected Claims 19-25, 29, 32 and 33 as being allegedly being obvious under 35 U.S.C. § 103(a). The Examiner states the Examiner was in error in the previous Office Action dated December 1, 2004 in allowing the subject Claim 23 because the step of "providing a blackout and thermal drapery lining" should not be given patentable weight since it is not an active method step. The Examiner cites the three-way combination of Miller, U.S. 4,790,591 in view of De Mott et al., U.S. 5,902,753 and Leaderman et al., U.S. 5,741,582 to reject Claim 23.

The Examiner rejected Claims 24-25 based on the four-way combination of Miller '591, De Mott et al. '753 and Leaderman et al. '582 in further view of Sarver, U.S. 4,560,245 and alleges that flocking is known in the art.

The Examiner rejected Claims 19-22, 29, 32 and 33 based on the sole citation of Poettgen, U.S. Re 34,816 directed to a surgical drape (not a drapery).

In response, with regard to Claims 23-25:

1. Applicant respectfully traverses the Examiner's rejection of Claim 23. Applicant has amended Claim 23 by incorporating the language of Claim 26 into Claim 23. Applicant has amended Claim 23 as suggested by the Examiner (see above) and also amended the "providing" language to "comprising" as explained above. Amended Claim 23 states Applicant's unique and non-obvious features including: "providing a fabric; coupling said fabric to said first layer of acrylic latex" (see above). Furthermore, according to amended Claim 23 the blackout thermal drapery comprises "the combination of the metalized film, the first layer of acrylic latex, the fabric and the second layer of acrylic latex" (see above). The references cited by the Examiner alone or in combination neither suggest, teach, are motivated or render obvious Applicant's unique features as described in amended Claim 23 (see above). Therefore, Applicant respectfully submits it is non-obvious to have Applicant's features as now recited in amended patentably distinguishing independent Claim 23.

2. Applicant has cancelled Claims 24 and 26 (see discussion above), thereby rendering the rejection of Claim 24 moot.

3. Applicant respectfully traverses the rejection of Claim 25. Applicant submits that none of the Examiner's cited references singly or in any combination suggest, teach, are motivated or render obvious Applicant's dependent Claim 25, which depends upon unique and non-obvious amended Independent Claim 23, and therefore has all the limitations of amended independent Claim 23.

With regard to Claims 19-22, 29, 32 and 33:

1. Applicant respectfully traverses the Examiner's rejection of Claims 19-22, 29, 32 and 33.

2. The Examiner admits that Poettgen '816 does not show Applicant's structure. Yet, the Examiner states (somehow) it would have been obvious to modify Poettgen's '816 laminate by adding a second layer of metal and a second

nonwoven layer in order to provide a two-sided reversible drape. The Examiner makes no mention whatsoever that Poettgen's '816 is a surgical drape (not a drapery), whereas a reading of Applicant's disclosure immediately shows that Applicant clearly has a drapery intended for hanging at a window, not a drape to wrap over a patient after surgery (i.e., not a surgical drape). The Examiner does not explain what would motivate a person skilled in the art to make the Examiner's suggested modification, and why it would be obvious to make the Examiner's suggested modification, which would certainly add to the cost of the surgical drape. Additionally, according to the Examiner's suggested modification the surgical drape would be heavier and therefore less comfortable for a patient (Poettgen '816 states the surgical drape is light-weight (see Abstract)). Finally, and most important, by having a fabric next to the patient's skin, there is a tendency for the fabric to absorb moisture from the patient. Such moisture would evaporate from the edges of the fabric and result in evaporative cooling of the patient. A thermoplastic layer next to the patient's skin would not absorb moisture or provide a path for evaporative heat loss. Therefore, a fabric layer next to the patient's skin would defeat the purpose of the surgical drape as required by Poettgen '816. So, there is no motivation for Poettgen '816 to make the Examiner's suggested modification, and in fact Poettgen '816 teaches away from the Examiner's suggested modification.

3. Applicant has amended Independent Claim 29 to more clearly define the unique and non-obvious features of a method for manufacturing a drapery: "coupling the first side of the second layer of fabric to the second side of the light impermeable metalized film, the combination of the light impermeable metalized film, the first layer of fabric and the second layer of fabric comprising a blackout and thermal drapery capable of providing a blackout effect while at the same time creating a thermal barrier effect, and said blackout and thermal drapery preventing a substantial amount of light penetration into a room from outside sources". Support for this amendment to independent Claim 29 is found in Applicant's Background of

the Invention and Applicant's Summary of the Invention. The amendment to independent Claim 29 makes it clear that the drapery is intended to both create a thermal barrier effect and to prevent a substantial amount of light penetration into a room from outside sources. Poettgen '816 clearly has no such motivation, teaching or suggestion. The amendment to Claim 29 is intended to be clarifying only and no reduction in scope of the remaining claims is intended.

4. Claims 19-22, 32 and 33 all ultimately depend upon unique and non-obvious amended independent Claim 29, and therefore and are also unique and non-obvious, thereby overcoming the rejection of dependent Claims 19-22, 32 and 33.

5. Accordingly, it is respectfully submitted that the Examiner's rejection of amended independent Claim 29 and dependent Claims 19-22, 32 and 33 has been overcome, and Applicant courteously requests allowance of amended dependent Claims 19-22.

Applicant has now made an earnest attempt to place this application in condition for allowance. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of Claims 1, 3-9, 19-23, 25, 29 and 32-33 now on file and that the application be passed to issue.

Should the Examiner feel that a telephone conference would help to expedite the prosecution of the subject application the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Since no new Claims have been added no fees are due.

If there are any further fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,

  
Harry M. Weiss  
WEISS, MOY & HARRIS, P.C.  
Registration No. 19, 497  
Telephone: 702-878-7323  
Facsimile : 702-878-4510